HON'BLE MR. JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.23642 of 2007

Dated: 20-11-2007

Between:
Smt. Ch. Lakshmi.

...
Petitioner

AND
The Greater Hyderabad Municipal Corporation,
reptd., by its Commissioner, Tankbund road,
Hyderabad and another.

...
Respondent

Counsel for the petitioner: Sri Joe Rathan Raj.

Counsel for the respondent: Smt. Kalpana Ekbote

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WRIT PETITION No.23642 of 2007

ORDER:

This Writ Petition is filed for a Writ of Mandamus to declare the action of the respondent-Commissioner, Greater Hyderabad Municipal Corporation (hereinafter referred to as "the Corporation") in rejecting the application of the petitioner, vide: Proceedings dated 26-07-07 as illegal and, consequently, direct the Corporation to issue permission for construction of building on the premises bearing H.No.10-1-596/1/7 in Plot No.7 in Survey No.23 of West Marredpally, Secunderabad.

Heard Sri Sri Joe Rathan Raj, learned counsel for the

petitioner

and Smt. Kalpana Ekbote, learned Standing Counsel for the Corporation.

The application of the petitioner for grant of building permission was refused to be received by the Corporation on the ground that the Joint Collector, Hyderabad District, vide his endorsement dated 26-7-2007 declined to grant “No Objection Certificate” on the ground that the lands belongs to Government.

It is agreed by the learned counsel appearing for the parties that the issue raised in this Writ Petition - that whether the Corporation can decline to sanction permission for construction of building on the ground that the applicant has failed to produce the “No Objection Certificate” - is covered by the judgment of this Court in **HYDERABAD POTTERIES PRIVATE LIMITED V. COLLECTOR, HYDERABAD DISTRICT**[(1)]**.** While dealing with the scope of the powers of the Corporation with reference to the provisions of Section 428 and 429 of the Hyderabad Municipal Corporation Act, 1955, this Court in the said judgment held that the Commissioner is required to make a pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants; that the applications for grant of permission cannot be rejected solely on the basis of TSLR entries and that the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objectors, whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission was granted and dispute the title in any manner known to law. It is further held that all that the Commissioner is required to do is to find out prima facie title and lawful possession of the applicant and obviously such

consideration is confined only for the purposes of granting permission and nothing more.

In view of the aforesaid judgment in **HYDERABAD POTTERIES' case** (1 supra), the Writ Petition is disposed of and the respondent is directed to re-consider the application of the petitioner and dispose of the same in terms of the aforesaid judgment.

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Dt.20-11-2007 **C.V.NAGARJUNA REDDY,J**

Note:
Issue CC in two days.
(BO)

MNR

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(1) 2001 (3) ALT 200